

FRIDAY, JUNE 28, 2002

NINETY-SIXTH LEGISLATIVE DAY

The House met at 10:00 a.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Representative Shaw.

Representative Shaw led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present.....95

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under **Rule No. 20**:

Representative Cooper; illness.

Representative Rhinehart; illness.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Resolution No. 404: Rep(s). Sargent as prime sponsor(s).

House Bill No. 65: Rep(s). Maddox, Cole (Carter), Walker, Fitzhugh, White, Turner (Hamilton), McDaniel, Kent, Whitson, Davis (Cocke) and Kisber as prime sponsor(s).

House Bill No. 786: Rep(s). Turner (Hamilton) as prime sponsor(s).

FRIDAY, JUNE 28, 2002 – NINETY-SIXTH LEGISLATIVE DAY

House Bill No. 1334: Rep(s). Arriola, Hood, S. Jones, Caldwell, Bone and Hagood as prime sponsor(s).

RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Consent Calendar for June 28, 2002:

House Joint Resolution No. 1183 -- Memorials, Death - Dan Campbell McCall. by *Mumpower, *Godsey, *Davis (Washington).

SENATE JOINT RESOLUTIONS (Congratulatory and Memorializing)

Pursuant to **Rule No. 17**, the resolution(s) listed was/were noted as being placed on the Consent Calendar for June 28, 2002:

Senate Joint Resolution No. 892 -- Memorials, Retirement - Michael L. Cole. by *Rochelle, *Atchley, *Blackburn, *Burchett, *Burks, *Carter, *Clabough, *Cohen, *Cooper J, *Crowe, *Crutchfield, *Davis L, *Dixon, *Elsea, *Ford J, *Fowler, *Graves, *Harper, *Haun, *Haynes, *Henry, *Herron, *Jackson, *Kurita, *Kyle, *McNally, *Miller J, *Norris, *Person, *Ramsey, *Rochelle, *Trail, *Wilder, *Williams, Sen..

SENATE BILLS TRANSMITTED

On motion, the Senate Bills listed below, transmitted to the House, were held on the Clerk's desk pending third consideration of the companion House Bill as noted:

***Senate Bill No. 3240** -- Tort Liability - Revises definition of governmental entity with respect to any county having population in excess of 800,000 according to 2000 federal census or any subsequent federal census under Governmental Tort Liability Act to include certain non-profit public benefit corporation operating hospital. by *Ford J. (HB3298 by *DeBerry L, *Bowers)

HOUSE BILLS ON SECOND CONSIDERATION

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or held on the Clerk's desk as noted:

House Bill No. 3300 -- Constitutional Conventions -- House Finance, Ways and Means Committee

***House Bill No. 3301** -- Appropriations -- House Finance, Ways and Means Committee

REPORTS FROM STANDING COMMITTEES

The committees that met on **June 28, 2002**, reported the following:

GOVERNMENT OPERATIONS

The Government Operations Committee recommended for passage: House Bill(s) No(s). 2739 and 2768 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

COMMITTEE ON CALENDAR AND RULES

The Calendar and Rules Committee met and set the following bill(s) on the **Supplemental Regular Calendar for June 28, 2002**: House Bill(s) No(s). 786, 674, 1323 and 65.

REGULAR CALENDAR

House Bill No. 1334 -- Child Custody and Support - Expands sources of payment of mediation and education under parenting plans to include other available funds, in addition to federal, state, and local funds. Amends TCA Title 36, Chapter 6, Part 4. by *Patton, *Walker , *Black, *Boyer, *Dunn, *Clem, *Odom, *Kernell, *Turner (Davidson), *Bowers, *Buck, *Turner (Hamilton), *Overbey. (*SB899 by *Harper, *Fowler, *Haynes, *Trail)

Further consideration of House Bill No. 1334 previously considered on June 27, 2002, at which time it was reset for today's Calendar.

On motion, House Bill No. 1334 was made to conform with **Senate Bill No. 899**; the Senate Bill was substituted for the House Bill.

Rep. Patton moved that Senate Bill No. 899 be passed on third and final consideration.

On motion, Rep. Chumney withdrew Children and Family Affairs Committee Amendment No. 1.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2 as follows:

Amendment No. 2

AMEND Senate Bill No. 899 by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-6-413, is amended by deleting subsection (b) in its entirety and substituting instead the following:

(b)(1) The court may direct that all or part of the cost of court-ordered mediation, education and any related services to resolve family conflict in divorce and post-divorce matters shall be paid from all available federal, state, and local funds. Eligibility for receipt of such funds will be based on a sliding scale based on a person's ability to pay.

(2) There is hereby imposed an additional fee of sixty-two dollars and fifty cents (\$62.50) on the issuance of a marriage license; provided, however, that when both applicants provide the county clerk with an affidavit or valid driver's license establishing that they are not Tennessee residents or when both applicants provide the county clerk with a valid and timely certificate of completion of a premarital preparation course as provided in subdivision (b)(3), the applicants shall be exempt from payment of sixty dollars (\$60.00) of this fee. For each application for marriage, including an application from persons exempt from the sixty dollar (\$60.00) fee, a fee of two dollars and fifty cents (\$2.50) shall be paid to the county clerk for the services provided under this section. The county clerk shall pay the sixty dollar (\$60.00) fee to the state treasurer, which fee shall be allocated as follows:

(A) seven dollars (\$7.00) to the administrative office of the courts for the specific purpose of funding the parenting plan requirements pursuant to this part, through the divorcing parent education and mediation fund, which funding includes the costs of court-ordered mediation, parenting education programs and any related services to resolve family conflict in divorce and post-divorce matters;

(B) fifteen dollars (\$15.00) to the department of children's services for child abuse prevention services;

(C) seven dollars and fifty cents (\$7.50) to the office of criminal justice programs for domestic violence services, which shall be in addition to the privilege tax on marriage licenses under section 67-4-505; and

(D) twenty dollars and fifty cents (\$20.50) to the Tennessee Disability Coalition to build the capacity of the statewide disability community to offer services to families and children with disabilities;

(E) one dollar and twenty-five cents (\$1.25) to the Tennessee Court Appointed Special Advocates Association (CASA);

(F) four dollars (\$4.00) to the department of education for the sole purpose of making grants to Tennessee Alliance of Boys and Girls Clubs in each grand division as selected by the commissioner of education for the purpose of defraying the expenses of such clubs implementing the "Project Learn" after-school program in the areas served by each club;

(G) three dollars (\$3.00) to the Tennessee Chapter of the National Association of the Social Workers for education, information, publications and capacity building efforts focused on strengthening services and referral networks to families and children; and

(H) one dollar and seventy-five cents (\$1.75) to the Weems Academy for foster care children.

(3) Funds in the divorcing parent education and mediation fund shall be used to fund the parenting plan requirements of this part, including the creation of a grant process to serve local courts with divorce jurisdiction, costs of court-ordered mediation, parenting education programs and any related services to resolve family conflict in divorce and post-divorce matters.

(4) The clerks of court with divorce jurisdiction, or two (2) or more clerks within a county or judicial district acting jointly, may apply to the administrative office of the courts for funding to serve such court or courts.

(5) A man and a woman who, together or separately, complete a premarital preparation course in compliance with this section shall be exempt from the sixty dollar (\$60.00) fee otherwise imposed by this section. Such course shall be not less than four (4) hours each, and shall be completed no more than one (1) year prior to the date of application for a marriage license. Each individual shall verify completion of the course by filing with the application a valid certificate of completion from the course provider, on a form developed by the administrative office of the courts, which certificate shall comply with the requirements of this subdivision.

(A) The premarital preparation course may include instruction regarding:

- (i) Conflict management.
- (ii) Communication skills.
- (iii) Financial responsibilities.
- (iv) Children and parenting responsibilities.

(v) Data compiled from available information relating to problems reported by married couples that seek marital or individual counseling.

(B) All individuals who participate in a premarital preparation course shall choose from the following list of qualified instructors:

(i) A psychologist as defined under § 63-11-203;

(ii) A clinical social worker as defined in Tennessee Code Annotated, Title 63, Chapter 23, Part 1;

(iii) A licensed marital and family therapist as defined in § 63-22-115;

(iv) A clinical pastoral therapist as defined in Tennessee Code Annotated, Title 63, Chapter 22, Part 2;

(v) A professional counselor as defined in Tennessee Code Annotated, section 63-22-104;

(vi) A psychological examiner as defined in section 63-11-202;

(vii) An official representative of a religious institution, which is recognized under § 63-22-204; or

(viii) Any other approved instructor. Each judicial district may establish a roster of area course providers, including those who offer the course on a sliding scale fee scale or for free.

(C) The administrative office of the courts shall develop a certificate of completion form for to be completed by providers, which shall include:

(i) an attestation of the provider's compliance with the premarital preparation course requirements as set forth in this section;

(ii) the course instructor's name, address, qualifications, and license number, if any, or, if an official representative of a religious institution, a statement as to relevant training;

(iii) the name of the participant or participants; and

(iv) the hours completed and the date of completion.

Each premarital preparation course provider shall furnish each participant who completes the course with a certificate of completion as required by this subdivision.

(6) Any moneys collected under this section during the pilot program and not expended shall remain in the divorcing parent and mediation fund established by the state treasurer within the general fund for use by the administrative office of the courts, consistent with subdivision (b)(2)(A). No moneys collected under this section shall revert to the general fund of the state, but shall remain available exclusively as specified in this section.

(7) In addition to other fees authorized by this section, court clerks shall be entitled to normal copying fees, not to exceed fifty cents (\$.50) per page, for providing copies of documents necessary for parenting plans.

SECTION 2. The administrative office of the courts shall not be obligated to make grants to judicial districts except with funds specifically appropriated for such purpose.

SECTION 3. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Rep. Kisber withdrew Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2.

Rep. Overbey moved that Amendment No. 3 be withdrawn, which motion prevailed.

Rep. Boyer moved the previous question, which motion failed by the following vote:

Ayes	47
Noes	32
Present and not voting	1

FRIDAY, JUNE 28, 2002 – NINETY-SIXTH LEGISLATIVE DAY

Representatives voting aye were: Armstrong, Arriola, Baird, Black, Bone, Boyer, Buck, Bunch, Caldwell, Casada, Clem, Cole (Carter), Cole (Dyer), Curtiss, Ford, Fowlkes, Fraley, Givens, Goins, Hood, Johnson, Jones U, Kent, Lewis, McCord, McDaniel, McKee, Montgomery, Newton, Odom, Overbey, Patton, Pinion, Roach, Rowland, Sargent, Scroggs, Shaw, Stanley, Tidwell, Tindell, Todd, Turner (Hamilton), Turner (Davidson), Walker, West, Mr. Speaker Naifeh -- 47.

Representatives voting no were: Beavers, Bittle, Briley, Brown, Buttry, Chumney, Davis (Washington), DeBerry L, Dunn, Ferguson, Fitzhugh, Garrett, Godsey, Hagood, Hargrove, Harwell, Jones S, Langster, Maddox, McDonald, McMillan, Mumpower, Pleasant, Sands, Sharp, Shepard, Towns, Turner (Shelby), Vincent, White, Windle, Wood -- 32.

Representatives present and not voting were: Kernell -- 1.

After further debate, Rep. Black moved the previous question, which motion prevailed by the following vote:

Ayes	64
Noes	23

Representatives voting aye were: Armstrong, Arriola, Baird, Bittle, Bone, Bowers, Boyer, Buck, Caldwell, Casada, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Ford, Fowlkes, Fraley, Givens, Goins, Hagood, Hargett, Harwell, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, McCord, McDaniel, McDonald, McKee, Montgomery, Newton, Odom, Overbey, Patton, Pinion, Pruitt, Ridgeway, Rinks, Roach, Rowland, Sargent, Scroggs, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Davidson), Vincent, Walker, West, White, Whitson, Mr. Speaker Naifeh -- 64.

Representatives voting no were: Beavers, Briley, Brown, Buttry, Chumney, Davis (Washington), DeBerry L, Dunn, Ferguson, Fitzhugh, Garrett, Godsey, Hargrove, Maddox, McMillan, Mumpower, Pleasant, Sands, Sharp, Turner (Shelby), Windle, Winningham, Wood -- 23.

Rep. Patton moved that **Senate Bill No. 899**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	73
Noes	12
Present and not voting	2

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brown, Buck, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Dunn, Ford, Fowlkes, Fraley, Givens, Goins, Hagood, Hargett, Hargrove, Harwell, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, McCord, McDaniel, McDonald, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Pinion, Pleasant, Pruitt, Ridgeway, Roach, Rowland, Sargent, Scroggs, Sharp, Shepard, Stanley, Tindell, Todd, Towns, Turner (Hamilton), Turner (Davidson), Vincent, Walker, West, Whitson, Wood, Mr. Speaker Naifeh -- 73.

Representatives voting no were: Ferguson, Garrett, Maddox, Phelan, Rinks, Sands, Shaw, Tidwell, Turner (Shelby), White, Windle, Winningham -- 12.

Representatives present and not voting were: Brooks, McMillan -- 2.

A motion to reconsider was tabled.

House Resolution No. 404 -- Memorials, Recognition - Middle Tennessee Pony Club Horse Trials, 50th Anniversary, by *Hagood.

Further consideration of House Joint Resolution No. 404 previously considered on June 27, 2002, at which time it was objected to on the Consent Calendar and reset for today's Regular Calendar.

Rep. Hagood moved adoption of House Resolution No. 404.

Rep. Hagood moved adoption of Amendment No. 1 as follows:

Amendment No. 1

AMEND House Resolution No. 404 By deleting the eighth Whereas clause which reads " WHEREAS, this year, the famed event will host the dressage and show jumping phases at Brownland Farm in Franklin on October 12 and the cross-country phase at Percy Warner Park on October 13; and" and by substituting instead the language" WHEREAS, this year, the famed event will host the dressage and show jumping phases for the tenth consecutive year at Mac and Sissie Anderton's Brownland Farm in Franklin on October 12 and the cross-country phase at Percy Warner Park on October 13; and"

On motion, Amendment No. 1 was adopted by the following vote:

Ayes	90
Noes	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Hood, Johnson, Jones S, Jones U, Kent, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Ridgeway, Rinks, Roach, Rowland, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 90.

A motion to reconsider was tabled.

Rep. Hagood moved that **House Resolution No. 404**, as amended, be adopted, which motion prevailed.

A motion to reconsider was tabled.

SUPPLEMENTAL REGULAR CALENDAR

House Bill No. 786 – Workers' Compensation - Changes total and permanent loss of mental faculties from scheduled member injury to injury to body as whole. Amends TCA Title 50, Chapter 6, Part 2. by "Briley, *Pinion. (*SB277 by *Haynes)

On motion, House Bill No. 786 was made to conform with **Senate Bill No. 277**; the Senate Bill was substituted for the House Bill.

On motion, Rep. West withdrew Consumer and Employee Affairs Committee Amendment No. 1.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2 as follows:

Amendment No. 2

AMEND Senate Bill No. 277 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-6-207(3)(A)(ii), is amended by deleting the language ", and" at the end of subitem (ee) and by substituting instead a period and by deleting subitem (ff) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 50-6-207(4), is amended by adding the following as a new item:

(C)(i) If an employee is determined, by trial or settlement, to be permanently totally disabled, the employer, insurer or the department of labor and workforce development, in the event the second injury fund is involved, may have the employee examined, at the expense of the requesting entity, from time to time subject to the conditions outlined in this section and may seek reconsideration of the issue of permanent total disability as provided herein.

(ii) The request for the examination of the employee may not be made until twenty-four (24) months have elapsed following the entry of a final order in which it is determined that the employee is permanently totally disabled. Any request for an examination is subject to considerations of reasonableness in regard to notice prior to examination, place of examination and length of examination.

(iii) A request for an examination may not be made more often than once every twenty-four (24) months. The procedure for this examination shall be as follows:

(a) The requesting entity shall first make informal contact with the employee, either by letter or by telephone, to attempt to schedule an appointment with a physician for examination at a mutually agreeable time and place. It is the intent of the general assembly that the requesting entity make a good faith effort to reach a mutual agreement for examination, recognizing the inherently intrusive nature of a request for examination.

(b) If, after a reasonable period of time, not to exceed thirty (30) days, mutual agreement is not reached, the requesting entity shall send the employee written "notice of demand for examination" by certified mail, return receipt requested on a form provided by the department of labor and workforce development. The form shall clearly inform the employee of the following: the date, time and place of the examination; the name of the examining physician, the employee's obligations, any pertinent time limitations, the employee's rights, and any consequences of the employee's failure to submit to the examination. The examination shall be scheduled to take place within thirty (30) days of the date on the notice.

(c) After receipt of the "notice of demand for examination", the employee shall either submit to the examination at the time and place identified in the notice form, or, within thirty (30) days from the date of the notice, the employee shall schedule an appointment for a different date and time conducted by the same physician, and this examination shall be completed no later than ninety (90) days from the date of the notice.

(d) In the event the employee fails to submit to the examination at the time and place identified in the notice form and fails to schedule, within thirty (30) days from the date of the notice, an alternative examination date, as provided in subitem (c) above, then the employee's periodic benefits shall be suspended for a period of thirty (30) days.

(e) In the event the employee schedules an alternative date for the examination as provided in subitem (c) above, and fails to submit to the examination within the ninety (90) day period, then the employees' periodic benefits shall be suspended for a period of thirty (30) days beginning at the end of the ninety (90) day period within which the alternatively scheduled examination was to be completed.

(f) If the employee submits to examination within any period of suspension of benefits, then within fourteen (14) days of such submission, periodic benefits shall be restored and any periodic benefits that were withheld during any period of suspension of benefits shall be remitted to the employee.

(g) Within ten (10) days of the date on which periodic benefits are suspended pursuant to either subitems (d) or (e) above, the entity suspending the periodic benefits, shall notify the department of labor and workforce development, in writing, that periodic benefits have been suspended and the date on which the periodic benefits were suspended and shall provide the department a copy of the original "notice of demand for examination" sent to the employee.

(h) After the department receives notice of suspension of benefits pursuant to either subitems (d) or (e) above, the department shall contact the employee and for a period of thirty (30) days assist the employee to schedule an examination to be conducted by the physician named in the notice. After the thirty (30) day assistance period has elapsed, if the employee has not submitted to examination, the department shall authorize the employer, insurer or department to suspend periodic benefits for a period of thirty (30) days. At the conclusion of each thirty (30) day suspension period, periodic benefits shall be restored. After the restoration of periodic benefits, the department shall, in thirty (30) day cycles, continue to assist the employee to schedule the examination, to be followed by thirty (30) day cycles of suspension of benefits until such time as the examination of the employee is completed. If, at any time during any period of suspension of periodic benefits, the employee submits to examination, then within fourteen (14) days of notice of the examination having been conducted, periodic benefits shall be restored and any periodic benefits that were withheld during any period of suspension shall be remitted to the employee.

(iv) Subsequent to an examination as described herein, the employer, insurer or department may request a reconsideration of the issue of whether the employee continues to be permanently totally disabled based on any changes in the employee's circumstances that have occurred since the time of the initial settlement or trial.

(v) Prior to filing any request for reconsideration, the employer, insurer or department shall request a benefit review conference with the department of labor and workforce development. The parties may not waive such benefit review conference. If the parties are unable to reach an agreement at the benefit review conference, the employer, insurer or department may file a request for reconsideration before the court originally adjudging or approving the award of permanent total disability. In the event that a settlement approved by the department of labor and workforce development is to be reconsidered under these provisions then a cause of action should be filed as provided in Tennessee Code Annotated, § 50-6-225.

(vi) In the event a reconsideration request is filed pursuant to this section, the only remedy available to the employer, insurer or department is the modification of or termination of future periodic disability benefits.

(vii) In the event the employer, insurer or department files a request for reconsideration or cause of action hereunder and the court does not terminate the employee's future periodic disability benefits, the employee shall be entitled to an award of reasonable attorney fees, court costs and reasonable and necessary expenses incurred by the employee in responding to the request for reconsideration upon application to and approval by the court. In determining what attorney fees shall be awarded hereunder, the court shall make specific findings in respect to the following criteria:

(a) The time and labor required, the novelty and difficulty of the questions involved in responding to the request for reconsideration, and the skill requisite to perform the legal service properly.

(b) The fee customarily charged in the locality or by the attorney for similar legal services.

(c) The amount involved and the results obtained.

(d) The time limitations imposed by the client or by the circumstances.

(e) The experience, reputation, and ability of the lawyer or lawyers performing the services.

(D)(i) The employer, insurer or department, in the event the second injury fund is involved, shall notify the department, on a form to be developed by the department of the entry of a final order adjudging an employee to be permanently totally disabled. The form shall be submitted to the department within thirty (30) days of the entry of the order.

(ii) On an annual basis, the department of labor and workforce development shall require an employee who is receiving permanent total disability benefits to certify on forms provided by the department that he or she continues to be permanently totally disabled, that he or she is not currently working at an occupation which brings the employee an income and has not been gainfully employed since the date permanent total disability benefits were awarded, by trial or settlement.

(iii) The department shall send the certification form to the employee by certified mail, return receipt requested and shall include a self-addressed stamped envelope for the return of the completed form.

(iv) In each annual cycle, if the employee fails to return the form to the department within thirty (30) days of the date of receipt of the form, as evidenced by the date on the return receipt notice, then the department shall notify the entity who gave notice to the department that the employee was permanently totally disabled pursuant to subitem (i) above that four (4) weeks of periodic disability benefits shall be withheld from the employee as a penalty for the failure to return the form to the department. If the completed form is returned to the department within one hundred twenty (120) days of the date on the return receipt notice, the department shall notify the appropriate entity and then, within fourteen (14) days of receipt of the notice from the department, that entity shall refund to the employee the entire four (4) weeks of periodic disability benefits previously withheld from the employee.

SECTION 3. Tennessee Code Annotated, Section 50-6-207(4)(A)(ii) is amended by deleting the subitem in its entirety and substituting instead the following:

(ii) Notwithstanding other provisions of the law to the contrary and notwithstanding any agreement of the parties to the contrary, permanent total disability payments shall not be commuted to a lump sum, except in accord with the following: (a) benefits may be commuted to a lump sum to pay only the employee's attorney's fees and litigation expenses and to pay pre-injury obligations in arrears; (b) the commuted portion of an award payable to the employee shall not exceed the value of one hundred (100) weeks of the employee's benefits; (c) after the total amount of the commuted lump sum is determined, the amount of the weekly disability benefit shall be recalculated to distribute the total remaining permanent total benefits in equal weekly installments beginning with the date of entry of the order and terminating on the date the employee's disability benefits terminate pursuant to section (4)(A)(i) above.

SECTION 4. Tennessee Code Annotated, Section 50-6-102, is amended by adding a new subsection as follows:

() "Mental injury" means a loss of mental faculties or a mental and/or behavioral disorder where the proximate cause is a compensable physical injury resulting in a permanent disability, or an identifiable work-related event resulting in a sudden or unusual mental stimulus. A mental injury shall not include a psychological or psychiatric response due to the loss of employment or employment opportunities.

SECTION 5. Tennessee Code Annotated, Section 50-6-102(12), is amended by inserting the language "and shall include a mental injury arising out of and in the course of employment " immediately after the language "death of the employee" and the punctuation ";" at the end of the item.

SECTION 6. This act shall take effect on July 1, 2002, the public welfare requiring it and shall apply to injuries occurring on or after July 1, 2002.

On motion, Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2 was adopted.

Rep. Newton moved the previous question, which motion prevailed.

Rep. Briley moved that **Senate Bill No. 277**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	82
Noes	10
Present and not voting	1

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Buttry, Caldwell, Chumney, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Cocke), DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Hagood, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Ridgeway, Rinks, Roach, Rowland, Sands, Scroggs, Sharp, Shaw, Shepard, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Walker, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 82.

Representatives voting no were: Casada, Clem, Davis (Washington), Godsey, Goins, Hargett, Montgomery, Sargent, Stanley, Vincent -- 10.

Representatives present and not voting were: Bunch -- 1.

A motion to reconsider was tabled.

***House Bill No. 674** -- Campaigns and Campaign Finance - Expresses intent of general assembly that campaign finance system be reformed to promote increased voter confidence and participation; directs registry of election finance to study issue and to provide recommendations to general assembly. Amends TCA Title 2; Title 3 and Title 8. by *Kisber, *McMillan. (SB1494 by *Cooper J)

On motion, House Bill No. 674 was made to conform with **Senate Bill No. 1494**; the Senate Bill was substituted for the House Bill.

Rep. McMillan moved that Senate Bill No. 1494 be passed on third and final consideration.

On motion, Rep. U. Jones withdrew State and Local Government Committee Amendment No. 1.

On motion, Rep. U. Jones withdrew State and Local Government Committee Amendment No. 2.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 3 as follows:

Amendment No. 3

AMEND Senate Bill No. 1494 by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 2-10-302(d), is amended by deleting subdivision (2) and substituting instead the following:

(2) No candidate for any other state or local public office shall accept in the aggregate more than seventy-five thousand dollars (\$75,000) from multicandidate political campaign committees; however, such candidate may accept contributions in excess of such limit from multicandidate political campaign committees if no more than fifty percent (50%) of the candidate's total contributions are from multicandidate political campaign committees.

SECTION 2. Tennessee Code Annotated, Section 2-10-306(a)(2) is amended by deleting the language "Forty thousand dollars (\$40,000)" and by substituting instead the language "Fifty thousand dollars (\$50,000)".

SECTION 3. Tennessee Code Annotated, Section 2-10-306(a)(3) is amended by deleting the language "Twenty thousand dollars (\$20,000)" and by substituting instead the language "Thirty thousand dollars (\$30,000)".

SECTION 4. Tennessee Code Annotated, Title 2, Chapter 10, Part 3, is amended by adding the following new sections:

Section ____ No candidate shall accept contributions more than two (2) years in advance of an election.

SECTION 5. Tennessee Code Annotated, Title 2, Chapter 10, Part 2, is amended by adding the following language as a new, appropriately designated section:

Section 2-10-2__.

(a) The Registry of Election Finance, notwithstanding any other provision of the law to the contrary, shall do all of the following:

(1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based electronic filing process for use by all candidates for state public office and all political campaign committees which are required to file statements and reports with the Registry of Election Finance.

(2) Develop, with the advice, assistance and approval of the office of information resources, a system that provides each candidate and campaign committee with secure access to the electronic filing system. The system shall provide safeguards against efforts to tamper or change the data in any way.

(3) Provide training to candidates and campaign committees on the use of the electronic filing system.

(4) Develop, with the advice, assistance and approval of the office of information resources, a system that will forward a copy of any candidate's report filed electronically with the Registry of Election Finance to the appropriate local county election commission as required in T.C.A. §2-10-105(a).

(5) Beginning with the 2002 regular August election, if practicable, and with the advice, assistance and approval of the office of information resources, provide to the public full access to a list of campaign contributions made to candidates by posting such list on the Internet. Such lists shall not be subject to the provisions of §2-10-111. In addition, the registry shall provide assistance to anyone seeking to access this information on the Internet. Campaign donations lists shall not be made available on the Internet until the lists for each candidate running for the same office are available and such lists shall be made available on the Internet as simultaneously as is practicable.

(b) The Registry of Election Finance, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

(c) The Registry of Election Finance shall, if practicable, and with the advice, assistance and approval of the office of information resources, implement the electronic filing system for use in the 2002 regular August election and all subsequent state elections. Candidates for state public offices and campaign committees may commence electronic filing for any state election beginning in the year 2002 after the effective date of this act and after notice has been given pursuant to subsection (b) and may continue to file electronically all reports for any subsequent state elections.

(d) All information entered by any candidate or campaign committee into the electronic filing system shall remain confidential until the information is filed with the Registry of Election Finance.

SECTION 6. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 2-10-121. No later than sixty (60) days after the effective date of this act, each multicandidate political campaign committee registered with the Registry of Election Finance shall pay a registration fee of seventy-five dollars (\$75.00). For any multicandidate political campaign committee registering a new committee during the year 2002 after the effective date of this act, the committee shall pay the registration fee at the time that it certifies its political treasurer. No later than January 31 each year thereafter, each multicandidate political campaign committee registered with the Registry of Election Finance shall pay a registration fee of seventy-five dollars (\$75.00). For any multicandidate political campaign committee registering a new committee during any year, the committee shall pay the registration fee at the time that it certifies its political treasurer. All fees collected by the Registry of Election Finance under the provisions of this section shall be retained by the Registry and used for expenses related to maintaining an electronic filing system.

SECTION 7. The increase in contribution limits authorized pursuant to Sections 1, 2 and 3 of this act shall only apply to elections held through the regular November election in 2004 at which time Sections 1, 2 and 3 of this act are repealed and the provisions of Tennessee Code Annotated amended by the provisions of such sections are revived in their entireties as such sections existed immediately prior to the provisions of this act becoming law and the Tennessee Code Commission is directed to restore such code sections appropriately.

SECTION 8. Section 1 of this act shall apply to contributions received on or after the effective date of this act. Any contribution lawfully received prior to the effective date of this act shall not be included in the calculation of limitations pursuant to Section 1 of this act.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.

Rep. Newton moved the previous question to Amendment No. 3, which motion prevailed.

On motion, Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 3 was adopted.

Rep. McMillan moved adoption of Amendment No. 4 as follows:

Amendment No. 4

AMEND Senate Bill No. 1494 by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 3-6-104(b), is amended by deleting the language "twenty-five dollars (\$25.00)" and substituting instead the language "fifty dollars" (\$50.00)".

SECTION _____. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

On motion, Amendment No. 4 was adopted.

Rep. Hargett moved adoption of Amendment No. 5 as follows:

Amendment No. 5

AMEND Senate Bill No. 1494 By deleting Sections 1, 2, 3, 7 and 8, in their entirety, added by House Finance Ways and Means Committee Amendment No. 1.

Rep. Kisber moved that Amendment No. 5 be tabled, which motion failed by the following vote:

Ayes	28
Noes	58

Representatives voting aye were: Armstrong, Briley, Caldwell, Cole (Carter), Cole (Dyer), DeBerry L, Fitzhugh, Fowlkes, Givens, Hargrove, Head, Jones U, Kisber, Maddox, McDaniel, McKee, McMillan, Miller, Phelan, Rinks, Roach, Sands, Shaw, Turner (Hamilton), Turner (Davidson), Walker, White, Mr. Speaker Naifeh -- 28.

Representatives voting no were: Arriola, Baird, Beavers, Bittle, Black, Bone, Boyer, Brown, Buck, Bunch, Buttry, Casada, Chumney, Clem, Curtiss, Davidson, Davis (Washington), Davis (Cocke), Dunn, Ferguson, Ford, Fraley, Garrett, Godsey, Goins, Hagood, Hargett, Harwell, Hood, Johnson, Jones S, Kent, Langster, McCord, McDonald, Montgomery, Mumpower, Odom, Overbey, Patton, Pinion, Pleasant, Pruitt, Rowland, Sargent, Scroggs, Sharp, Shepard, Stanley, Tidwell, Todd, Towns, Turner (Shelby), Vincent, West, Windle, Winningham, Wood -- 58.

FRIDAY, JUNE 28, 2002 – NINETY-SIXTH LEGISLATIVE DAY

Rep. McMillan moved that Senate Bill No. 1494 be reset for the Regular Calendar on June 29, 2002, which motion prevailed.

House Bill No. 1323 -- Victims' Rights - Renames "individual" as "person" under Criminal Injuries Compensation Act. Amends TCA Section 40-24-107 and Section 67-4-606. by *McMillan, *Davidson. (*SB1243 by *Burks, *Cooper J)

On motion, House Bill No. 1323 was made to conform with **Senate Bill No. 1243**; the Senate Bill was substituted for the House Bill.

Rep. McMillan moved that Senate Bill No. 1243 be passed on third and final consideration.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

Amendment No. 1

AMEND Senate Bill No. 1243 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-24-107, is amended by deleting subsection (e) and substituting instead the following:

(e) At the close of each fiscal year, the state treasurer shall determine whether moneys deposited to the criminal injuries compensation fund pursuant to state law exceeded claim payments for such fiscal year by more than one hundred thousand dollars (\$100,000). In any year where such moneys exceed claim payments by at least one hundred thousand dollars (\$100,000), the state treasurer is authorized to make a grant from such excess moneys to the Tennessee coalition against domestic and sexual violence for the purpose of supporting the activities of the Tennessee victims of crime coordinating council, created pursuant to Tennessee Code Annotated, Title 40, Chapter 38, Part 4. The coalition shall submit to the state treasurer a plan specifying the use of the moneys and such plan must be approved by the state treasurer prior to the issuance of the grant. The grant authorized in this subdivision shall not exceed one hundred thousand dollars (\$100,000) and is subject to authorization contained in the General Appropriations Act.

SECTION 2. This act shall take effect on July 1, 2002, the public welfare requiring it.

On motion, Finance, Ways and Means Committee Amendment No. 1 was adopted.

Rep. McMillan moved that **Senate Bill No. 1243**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	91
Noes	0
Present and not voting	1

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh – 91.

Representatives present and not voting were: Clem -- 1.

A motion to reconsider was tabled.

***House Bill No. 65** -- Criminal Procedure - States legislative finding that alternative sentences not appropriate for second offenders who injure victim. Amends TCA Title 38 through Title 41. by *McMillan, *Odom, *Todd. (SB1072 by *Burks)

On motion, House Bill No. 65 was made to conform with **Senate Bill No. 1072**; the Senate Bill was substituted for the House Bill.

Rep. McMillan moved that Senate Bill No. 1072 be passed on third and final consideration.

Rep. Kernell moved adoption of Government Operations Committee Amendment No. 1 as follows:

Amendment No. 1

AMEND Senate Bill No. 1072 By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 38, is amended by adding Sections 2 through 7 of this act as new part 4.

SECTION 2. There is hereby created the victims of crime state coordinating council, hereinafter referred to as the "victims council", to be organized and administered in accordance with the provisions of this act.

SECTION 3. For administrative purposes only, the victims council shall be attached to the Tennessee coalition against domestic and sexual violence. All administrative expenses incurred by the victims council, including employment of a victims' advocate, shall be paid from funds the victims council receives pursuant to Section 6 of this act.

SECTION 4. (a) The victims council shall consist of the following persons or their designees:

- (1) The director of the administrative office of the courts;
- (2) Executive director of the district attorneys general conference;
- (3) President of the Tennessee sheriffs' association;
- (4) President of the Tennessee chiefs of police;
- (5) The state treasurer;
- (6) Attorney general and reporter;
- (7) Executive director of the coalition against domestic and sexual violence;
- (8) Chairperson of board of probation and parole;
- (9) Commissioner of correction;
- (10) Two (2) victims of violent crime or family members of victims of violent crime chosen by members of the council; and
- (11)(A) In addition to the persons selected pursuant to item (10), up to nine (9) members, not more than one (1) from each congressional representative district, chosen by members of the victims council. Members chosen shall be representatives of established victims' rights and victims' support organizations. Such members shall represent a diverse range of victims groups. In making appointments to the victims council, members shall strive to ensure that members of racial minorities and persons over the age of sixty (60) are chosen.

(B) It is the legislative intent that members shall represent bona fide victims rights organizations and that memberships shall rotate in order to accommodate new victims rights organizations.

(b) The Tennessee coalition against domestic and sexual violence shall call and convene a meeting by October 1, 2002, for the purpose of electing officers and formulating preliminary policies.

(c) Officers shall serve for terms of two (2) years. Officers may not serve more than two (2) consecutive terms. Officers shall be elected from the membership of the victims council.

(d) The victims council shall meet at least twice a year, or more often as the chair may direct.

(e) Any major expenditure by the victims council shall be included in the plan requesting grant money that is submitted to the treasurer as provided in § 40-24-107(e) and is subject to approval by the state treasurer.

SECTION 5. The purpose of the victims council is to promote awareness of the needs of victims of crime and families of victims of crime, to provide information and resources to victims of crime, and to coordinate and assist the efforts of victims' rights organizations. The victims council shall not assist individual victims or families of victims, but shall refer victims to the appropriate persons or organizations which are qualified to assist such victims, or shall advise victims of resources available to victims.

SECTION 6. Funding for the victims council shall come from grants awarded pursuant to § 40-24-107(e) and any other grants, donations or appropriations made for such purpose.

SECTION 7. (a) The council has the authority to develop policies for the operation and functioning of the council. Such policies shall include the process for the filling of vacancies and for establishing the terms of non ex-officio members.

(b) Council members shall serve without compensation but shall be reimbursed for travel expenses in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 8. Tennessee Code Annotated, Section 4-29-225(a), is amended by adding a new item thereto, as follows:

() Victims council, created by Section 2 of this act;

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Government Operations Committee Amendment No. 1 was adopted.

Rep. McMillan moved that **Senate Bill No. 1072**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	93
Noes	0
Present and not voting	1

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 93.

Representatives present and not voting were: Clem -- 1.

A motion to reconsider was tabled.

MESSAGE CALENDAR

HOUSE ACTION ON SENATE AMENDMENTS

***House Bill No. 3232** -- Criminal Offenses - Makes act of terrorism and possession of biological or chemical warfare agents crime; makes act of terrorism aggravating factor for purposes of imposing death penalty; enhances criminal penalties for other activities relating to terrorism or hoaxes. Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 9; Title 10; Title 11; Title 12; Title 13; Title 16; Title 17; Title 18; Title 19; Title 20; Title 21; Title 22; Title 23; Title 24; Title 28; Title 29; Title 33; Title 37; Title 38; Title 39; Title 40; Title 41; Title 42; Title 43; Title 45; Title 50; Title 53; Title 54; Title 55; Title 56; Title 57; Title 58; Title 59; Title 60; Title 63; Title 64; Title 65; Title 66; Title 67; Title 68; Title 69 and Title 71. by *Kisber, *Newton, *Cole (Carter), *Kent, *Naifeh, *Hargett, *Todd, *Pinion, *Westmoreland, *Bowers, *DeBerry J. (SB3192 by *Clabough, *Crowe, *Haun, *Miller J)

Senate Amendment No. 4

AMEND House Bill No. 3232 by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Title 40, Chapter 17, Part 1, is amended by adding the following as a new, appropriately designated section:

40-17-1__.

(a) The following procedure shall be employed when a law enforcement officer, as defined in §39-11-106, seeks to obtain a subpoena for the production of books, papers, records, documents, tangible things, or information and data electronically stored for the purpose of establishing, investigating or gathering evidence for the prosecution of a criminal offense.

(b) If the officer has reason to believe that a criminal offense has been committed or is being committed and that requiring the production of documents or information is necessary to establish who committed or is committing the offense or to aid in the investigation and prosecution of the person or persons believed to have committed or believed to be committing the offense, the officer shall prepare an affidavit in accordance with subsection (c).

(c) An affidavit in support of a request to compel the production of books, papers, records, documents, tangible things, or information and data electronically stored shall state with particularity the following:

(1) A statement that a specific criminal offense has been committed or is being committed and the nature of such offense;

(2) The articulable reasons why the law enforcement officer believes the production of the documents requested will materially assist in the investigation of the specific offense committed or being committed;

(3) The custodian of the documents requested and the person, persons or corporation about whom the documents pertain;

(4) The specific documents requested to be included in the subpoena; and

(5) The nexus between the documents requested and the criminal offense committed or being committed.

(d)(1) Upon preparing the affidavit, the law enforcement officer shall submit it to either a judge of a court of record or a general sessions judge who serves the officer's county of jurisdiction. The judge shall examine the affidavit and may examine the affiants under oath. The judge shall grant the request for a subpoena to produce the documents requested if the judge finds that the affiants have presented a reasonable basis for believing that:

(A) A specific criminal offense has been committed or is being committed;

(B) Production of the requested documents will materially assist law enforcement in the establishment or investigation of such offense;

(C) There exists a clear and logical nexus between the documents requested and the offense committed or being committed; and

(D) The scope of the request is not unreasonably broad or the documents unduly burdensome to produce.

(2) If the judge finds that all of the criteria set out in subsection (d)(1) exist as to some of the documents requested but not all of them, the judge may grant the subpoena as to the documents that do but deny it as to the ones that do not.

(3) If the judge finds that all of the criteria set out in subsection (d)(1) do not exist as to any of the documents requested, the judge shall deny the request for subpoena.

(e) The affidavit filed in support of any request for the issuance of a subpoena pursuant to this section shall be filed with and maintained by the court. If a subpoena is issued as the result of such an affidavit, such affidavit shall be kept under seal by the judge until a copy is requested by the district attorney general, criminal charges are filed in the case, or the affidavit is ordered released by a court of record for good cause.

(f) A subpoena granted pursuant to this section by a judge of a court of record shall issue to any part of the state and shall command the person, or designated agent for service of process, to whom it is directed to produce any books, papers, records, documents, tangible things, or information and data electronically stored that is specified in such subpoena, to the law enforcement officer and at such reasonable time and place as is designated in the subpoena. A subpoena granted pursuant to this section by a judge of a court of general sessions shall in all respects be like a subpoena granted by the judge of a court of record but shall issue only within the county in which such sessions judge has jurisdiction. The court shall prepare or cause to be prepared the subpoena and it shall describe the specific materials requested and set forth the date and manner the materials are to be delivered to the officer.

(g) If the subpoena is issued by a judge of a court of record, it may be served by the officer in any county of the state by personal service, registered mail, or by any other means with the consent of the person named in the subpoena. If the subpoena is issued by a judge of a general sessions court it shall be served by an officer with jurisdiction in the county of the issuing judge but may be served by personal service, registered mail, or by any other means with the consent of the person named in the subpoena. The officer shall maintain a copy of the subpoena and endorse thereon the date and manner of service as proof thereof.

(h) No person shall be excused from complying with a subpoena for the production of documentary evidence issued pursuant to this section on the ground that production of the requested materials may tend to incriminate such person. Any person claiming such privilege against self incrimination must assert such claim before the court of record issuing the subpoena and before the time designated for compliance therewith. If the district attorney general thereafter certifies to the court that the interests of justice demands the production of the requested materials for which the claim of privilege is asserted, then the court shall order the production of such materials and no such individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning the requested materials the person was compelled to produce. If the person fails to assert the privilege against self-incrimination, such person may raise this issue later but will not be entitled to immunity from prosecution.

(i) No subpoena for the production of documentary evidence authorized by this section shall be directed to, or served upon, any defendant, or his counsel, to a criminal action in this state.

(j) If any person without cause refuses to produce the requested materials within the time and manner designated for compliance by the issuing judge, the district attorney may file a motion for civil contempt with the court with such motion and show cause order being served upon the person. Such order shall designate a time and place for a hearing on the merits. If at the hearing the court finds that the person has willfully refused to produce the requested materials, the court may find that the person is in civil contempt and may assess sanctions accordingly including incarcerating the person with or without bond being set until compliance with the subpoena is satisfied. If the person fails to appear for such hearing, the court may issue a writ of attachment for said person.

(k) A person to whom a subpoena is directed may file a motion to quash or modify the subpoena upon a showing that compliance would be unreasonable or oppressive. Such person shall file any such motion stating an objection to the subpoena with the clerk of the court for the issuing judge within seven (7) days of service of the subpoena. The filing of such motion shall stay all proceedings pending the outcome of a hearing before the issuing judge. The judge shall conduct the hearing within seven (7) days of the filing of the motion.

SECTION _____. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

Rep. Kisber moved that the House nonconcur in Senate Amendment(s) No(s). 4 to **House Bill No. 3232**, which motion prevailed.

Senate Amendment No. 7

AMEND House Bill No. 3232 by deleting Section 10 of the printed bill and substituting the following:

SECTION 10. Tennessee Code Annotated, Section 38-6-102, is amended by adding the following as an appropriately designated new subsection:

(f) Investigators of the bureau of investigation are authorized, without a request from the district attorney general, to make investigations based upon intelligence information pertaining to domestic terrorism that the bureau received under a government information security classification. Investigators may make investigations based upon intelligence information pertaining to domestic terrorism that the bureau received from non-classified sources upon the request of the district attorney general.

Senate Amendment No. 8

AMEND House Bill No. 3232 by adding the following new subsection to the amendatory Section 39-13-807 in Section 1 of the printed bill:

(c) The provisions of this subsection shall not apply to any financial service, funds transfer, or securities transaction conducted in the ordinary course of business by a financial institution subject to the information sharing, suspicious activity reporting, or currency transaction reporting requirements of the Bank Secrecy Act (31 U.S.C. § 5311 *et seq.*, or the U.S.A. Patriot Act (PL 107-56); provided, that any such institution that acts with the intent to assist, aid, or abet any person planning or carrying out an act of terrorism in this state, or concealing or attempting to escape after committing or attempting to commit an act of terrorism, shall remain liable under subsection (a). For purposes of this act, "financial institution" shall have the meaning provided in 31 C.F.R. § 103.110.

Senate Amendment No. 11

AMEND House Bill No. 3232 by adding the following new subdivision to the amendatory Section 38-3-120(j) of the bill as amended:

(6) The provisions of subsection (j) shall not require an air carrier to designate any transportation security officers or otherwise staff law enforcement positions.

Senate Amendment No. 12

AMEND House Bill No. 3232 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____, Tennessee Code Annotated, Section 4-4-125, as amended by H.B. 1434, Chapter ____ of the Public Acts of 2002, is amended by deleting it in its entirety, and by substituting instead the following language:

No state entity shall publicly disclose the social security number of any citizen of the state unless:

- (1) Such permission is given by such citizen;
- (2) Distribution is authorized under state or federal law; or
- (3) Distribution is made:
 - (A) To a consumer reporting agency as defined by the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*;
 - (B) To a financial institution subject to the privacy provisions of the federal Gramm Leach Bliley Act, 15 U.S.C. § 6802; or
 - (C) To a financial institution subject to the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, 31 U.S.C. § 5311, *et seq.*

For purposes of this section, "publicly disclose" shall not include the use of any social security number by any state governmental entity in the performance of its functions or the disclosure of any social security number to another state entity, political subdivision, agency of the federal government, or any private person or entity which has been authorized to perform certain duties as a contractor of the State of Tennessee. Any person or entity receiving a social security number from any state entity shall be subject to the same confidentiality provisions as the disclosing state entity; provided, however, the confidentiality provisions applicable to a consumer reporting agency or financial institution as defined in item (3) above shall be governed by federal law. For purposes of this section, "state entity" means any state department, division, agency, bureau, board, commission, or other separate unit of government created or established by the constitution, by law or pursuant to law, including the legislative branch and the judicial branch, and any employee or agent thereof.

Senate Amendment No. 9

AMEND House Bill No. 3232 by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 40-35-313, is amended by adding the following new subsection (c) and by relettering present subsection (c) accordingly:

(c) Notwithstanding the provisions of this section or § 40-32-101(a)(3)-(c)(3) to the contrary, a plea of guilty or a verdict of guilty by a judge or jury for a criminal offense involving an act of terrorism or any other offense involving violence, coercion, dishonesty or the disruption of the operations of a state or local government is admissible into evidence in a civil action for the purpose of impeaching the truthfulness, veracity or credibility of a witness if such plea or verdict occurred within ten (10) years of the date the evidence is sought to be admitted and the witness is a party to the civil action. Such a plea or verdict is admissible for the purposes set out in this subsection notwithstanding the fact that the public records of such plea or verdict have been expunged pursuant to this section either prior to or after the commencement of the civil action at which the plea or verdict is sought to be admitted. In addition, the non-public records retained by the court, Tennessee bureau of investigation or a local law enforcement agency shall constitute official records of plea or verdict and are subject to the subpoena power of the courts of civil jurisdiction.

SECTION _____. Tennessee Code Annotated, Section 40-35-313, is further amended by deleting from the fourth sentence of subsection (a)(2) the language "or for the limited purposes provided in subsection (b)" and substituting instead the language "or for the limited purposes provided in subsections (b) and (c)".

SECTION ____ Tennessee Code Annotated, Section 40-35-313, is further amended by deleting from the fifth sentence of subsection (a)(2) the language "except as provided in subsection (b)" and substituting instead the language "except as provided in subsections (b) and (c)".

Senate Amendment No. 1 of 9

AMEND House Bill No. 3232 In (c) add "felony" in line 3 after "criminal" and before "offense" and add "felony" before "offense" after the word "other".

Senate Amendment No. 13

AMEND House Bill No. 3232 By deleting the language "separate unit of government" from the last sentence of the new section added by Senate Amendment No. 12, and by substituting instead the language "separate unit of state government".

Rep. Kisber moved that the House concur in Senate Amendment(s) No(s). 7, 8, 11, 12, 9 as amended and 13 to **House Bill No. 3232**, which motion prevailed by the following vote:

Ayes93
Noes0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 93.

A motion to reconsider was tabled.

RECESS MOTION

On motion of Rep. Davidson, the House stood in recess until 3:30 p.m.

MESSAGE FROM THE SENATE
June 28, 2002

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 892; adopted for concurrence.

RUSSELL A. HUMPHREY, Chief Clerk.

Senate Joint Resolution No. 892 -- Memorials, Retirement - Michael L. Cole, by *Rochelle, *Atchley, *Blackburn, *Burchett, *Burks, *Carter, *Clabough, *Cohen, *Cooper J, *Crowe, *Crutchfield, *Davis L, *Dixon, *Elsea, *Ford J, *Fowler, *Graves, *Harper, *Haun, *Haynes, *Henry, *Herron, *Jackson, *Kurita, *Kyle, *McNally, *Miller J, *Norris, *Person, *Ramsey, *Rochelle, *Trail, *Wilder, *Williams, Sen..

MESSAGE FROM THE SENATE
June 28, 2002

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1131.

The Senate refused to recede from its action in adopting Amendment(s) No(s). 1 as amended.

RUSSELL A. HUMPHREY, Chief Clerk.

RECESS EXPIRED

The recess having expired, the House was called to order by Mr. Speaker Naifeh.

ROLL CALL DISPENSED WITH

On motion of Rep. Davidson, the roll call was dispensed with.

CONSENT CALENDAR

House Joint Resolution No. 1183 -- Memorials, Death - Dan Campbell McCall. by *Mumpower, *Godsey, *Davis (Washington).

Senate Joint Resolution No. 892 -- Memorials, Retirement - Michael L. Cole, by *Rochelle, *Atchley, *Blackburn, *Burchett, *Burks, *Carter, *Clabough, *Cohen, *Cooper J, *Crowe, *Crutchfield, *Davis L, *Dixon, *Elsea, *Ford J, *Fowler, *Graves, *Harper, *Haun, *Haynes, *Henry, *Herron, *Jackson, *Kurita, *Kyle, *McNally, *Miller J, *Norris, *Person, *Ramsey, *Rochelle, *Trail, *Wilder, *Williams, Sen..

Rep. Kisber moved that all members voting aye on Senate Joint Resolution No. 892 be added as sponsors, which motion prevailed.

Pursuant to **Rule No. 50**, Rep. Miller moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes94
Noes0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh – 94.

A motion to reconsider was tabled.

BILLS WITHDRAWN

On motion of Rep. Bowers, **House Bill No. 2951** was recalled from the Committee on Calendar and Rules and withdrawn from the House.

HOUSE ACTION ON SENATE MESSAGE

House Bill No. 1131 – Education - Enacts "Tennessee Charter Schools Act of 2001." Amends TCA Title 49, Title 8, Chapter 35, and Sections 12-4-101 and 12-4-102. by *Winningham, *Montgomery, *McDaniel, *McCord, *Buttry, *Baird, *Black, *Beavers, *Boyer, *Sargent, *Scroggs, *Clem, *Vincent, *Dunn, *Wood, *Pleasant, *Bittle, *Sharp. (*SB887 by *Atchley, *Ford J, *Graves, *Trail, *McNally, *Person, *Haynes, *Crutchfield, *Carter, *Dixon, *Miller J, *Blackburn)

Rep. Winningham moved that House Bill No. 1131 be reset for the Message Calendar on June 29, 2002, which motion prevailed.

ANNOUNCEMENTS

BILL RECALL

Rep. Briley requested that Senate Bill No. 277 be recalled from the Senate, which motion prevailed.

RULES SUSPENDED

Rep. McMillan moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 1186 out of order, which motion prevailed.

House Joint Resolution No. 1186 -- Memorials, Death - Vernon Jenkins. by *McMillan, *Head.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. McMillan, the resolution was adopted.

A motion to reconsider was tabled.

RECESS MOTION

On motion, the House stood in recess until 5:30 p.m.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Resolution No. 405: Rep(s). Shepard as prime sponsor(s).

House Joint Resolution No. 1182: Rep(s). Mumpower, Godsey and Davis (Washington) as prime sponsor(s).

RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Supplemental Consent Calendar for June 28, 2002:

House Resolution No. 405 -- Memorials, Sports - John Wade Tucker. by *Pinion, *Phelan.

House Joint Resolution No. 1182 -- Memorials, Death - Representative Keith Westmoreland. by *McCord, *Montgomery, *Sargent.

House Joint Resolution No. 1184 -- Memorials, Death - Daisy Mai Butler. by *Maddox.

House Joint Resolution No. 1185 -- Memorials, Death - Paul Carroll. by *Maddox.

House Joint Resolution No. 1187 -- Memorials, Death - Amber Leanne White. by *Mumpower.

RECESS EXPIRED

The recess having expired, the House was called to order by Mr. Speaker Naifeh.

ROLL CALL DISPENSED WITH

On motion of Rep. Davidson, the roll call was dispensed with.

SUPPLEMENTAL CONSENT CALENDAR

House Resolution No. 405 -- Memorials, Sports - John Wade Tucker. by *Pinion, *Phelan.

House Joint Resolution No. 1182 -- Memorials, Death - Representative Keith Westmoreland. by *McCord, *Montgomery, *Sargent.

House Joint Resolution No. 1184 -- Memorials, Death - Daisy Mai Butler. by *Maddox.

House Joint Resolution No. 1185 -- Memorials, Death - Paul Carroll. by *Maddox.

House Joint Resolution No. 1187 -- Memorials, Death - Amber Leanne White. by *Mumpower.

Rep. McCord moved that all members voting aye on House Joint Resolution No. 1182 be added as sponsors, which motion prevailed.

Pursuant to **Rule No. 50**, Rep. Miller moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Supplemental Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Supplemental Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes91
Noes.....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Johnson, Jones S, Jones U, Kent, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 91.

A motion to reconsider was tabled.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 2569: Rep(s). Clem as prime sponsor(s).

House Bill No. 2937: Rep(s). Clem as prime sponsor(s).

REPORT OF CHIEF ENGROSSING CLERK

June 28, 2002

The following bill(s) have been transmitted to the Governor for his action: House Joint Resolution(s) No(s). 960, 1177, 1178 and 1179.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE SENATE

June 28, 2002

MR. SPEAKER: I am directed to return to the House, Senate Bill(s) No(s). 2107.

The Senate nonconcurred in House Amendment(s) No(s). 1.

RUSSELL A. HUMPHREY, Chief Clerk.

MESSAGE FROM THE SENATE

June 28, 2002

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 887, 888 and 889; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

SIGNED

June 28, 2002

The Speaker signed the following: Senate Joint Resolution(s) No(s). 887, 888 and 889.

ENROLLED BILLS

June 28, 2002

The following bills have been compared, enrolled, and are ready for the signature(s) of the Speaker(s): House Bill(s) No(s). 3116; also, House Resolution(s) No(s). 404.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**SIGNED
June 28, 2002**

The Speaker signed the following: House Bill(s) No(s). 3116; also, House Resolution(s) No(s). 404.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE
June 28, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 3116; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**REPORT OF CHIEF ENGROSSING CLERK
June 28, 2002**

The following bill(s) have been transmitted to the Governor for his action: House Bill(s) No(s). 3116.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE
June 28, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 3159.

The Senate refused to recede from its action in adopting Senate Amendment(s) No(s). 1 and 2.

The Speaker appointed a Conference Committee composed of Senators Atchley, McNally, Trail, Dixon and Burks to confer with a like Committee from the House to resolve the differences of the two bodies on House Bill No. 3159.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE
June 28, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 2364 and 2518; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**SIGNED
June 28, 2002**

The Speaker signed the following: Senate Bill(s) No(s). 2364 and 2518.

ENGROSSED BILLS

June 28, 2002

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1183.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

ENGROSSED BILLS

June 28, 2002

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1186.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

ENGROSSED BILLS

June 28, 2002

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1182, 1184, 1185 and 1187.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE SENATE

June 28, 2002

MR. SPEAKER: I am directed to return to the House, Senate Bill(s) No(s). 277, as requested.

RUSSELL A. HUMPHREY, Chief Clerk.

MESSAGE FROM THE GOVERNOR

June 28, 2002

MR. SPEAKER: I am directed by the Governor to return herewith: House Bill(s) No(s). 3116, with his approval.

JAY BALLARD, Counsel to the Governor.

RECESS MOTION

On motion of Rep. Davidson, the House stood in recess until 9:00 a.m., Saturday, June 29, 2002.